IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 21100 of 2007(J)

AS.177/2005 of SUB COURT,NEYYATTINKARA

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PETITIONER:

APPAVU PANICKER MRUTHINJAYA PANICKER,
AGED 78 YEARS, S/O. APPAVU PANICKER, RESIDING AT
MOOPPUKALA NADUTHATTU KADAYARA PUTHEN VEEDU,
KUNATHUKAL DESOM, KUNNATHUKAL VILLAGE,
NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SRI.V.VINAY MENON

RESPONDENTS:

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1. KALYANI JANAMMA,
RESIDING AT CHEMMANUVILA DIVAKARA VILASAM BUNGLOW
ALIAS SREE BHAVAN, VADAKODE DESOM, PERUMPAZHUTHOOR
VILLAGE, NEYYATTINKARA TALUK,THIRUVANANTHAPURAM DT

2. KALYANI PONNAMMA,
MELEPUTHEN VEEDU,HAVING ALSO NOOPPUKALA NADUTHATTU
VEEDU, KUNNATHUKAL VILLAGE, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.21100 OF 2007

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Dated this the 10th day of July, 2007

JUDGMENT

This writ petition is filed seeking to set aside the order in I.A.No.302 of 2007 in A.S.No.177 of 2005 of the Sub Court, Neyyattinkara. Even the prayer in the interim application is to take into consideration the objections filed and dispose of the matter at an early date. What the learned Sub Judge had done is since the objection is filed he has set aside the interim order and posted for hearing. Most probably, he has been carried away by the averments contained in paragraph 5 of the affidavit, wherein it is stated that the High Court has held Exts.A1 and A4 sale deeds as void. Whatever it may be, when an ex parte injunction is issued and the other side enters appearance and prays for an early hearing, what the court has to do is to hear the matter at the earliest and then dispose of the interim injunction application in accordance with law. There cannot be a further interim order setting aside the order and posting it for further hearing. The method adopted by the learned Sub Judge is incorrect. Therefore the order under challenge is set aside and the Sub Court, Neyyattinkara is directed to

consider and dispose of I.A.No.1734/2005 in accordance with law after hearing both sides. It has to be stated that the learned Sub Judge must give his reasons for either confirming or setting aside the earlier ex parte interim order.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-